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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,247	10/14/2003	Gary T. Dane	SMI0077.US	3999

7590

06/08/2006

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/685,247	Applicant(s) DANE ET AL.	
	Examiner Stephen J. Castellano	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 18-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/24/05, 10/14/03</u> | 6) <input type="checkbox"/> Other: _____ |

Applicant's election of claims 1-9, 18 and 19 in the reply filed on April 20, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 10-17 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 20, 2006.

Claims 1-9, 18 and 19 have been treated according to their merits.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sturges.

Sturges discloses a housekeeper's safe inherently capable of holding the contents when the contents are being sterilized and provides a sterilization case assembly, the assembly includes a first case (comprising box A and both boxes C, the first case includes drawers f) and a second case (comprising box B and cover a), the second case is stacked upon the first case in a vertical direction and the second case is offset from the first case in a direction transverse to the vertical direction (a horizontal direction).

Re claim 19, the interlocking of the first and second cases is accomplished by an inwardly curled flange at the outer edges of cover a that interlocks with the outwardly projecting lip of the box A.

Claims 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Trower et al. (Trower).

Trower discloses a tool box capable of holding items while they are sterilized, and is capable of performing as a sterilization case assembly, the assembly includes a first case 20 including a handle 28 and a second case 22 including a recess pocket (at the portion having elements 57 and 59). The handle interlocks with the pocket by a padlock connecting opening 35 of the handle with opening 59 of the pocket.

Claims 1, 5, 6, 18 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lai.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sturges in view of Holsinger.

Re claim 4, Sturges discloses the invention except for the hinged front cover. Holsinger teaches a portable work station capable of holding contents while they are sterilized, and includes a hinged front cover 30. It would have been obvious to add the hinged front cover to

keep the drawers in a closed position so that the drawers do not inadvertently open and cause the contents of the drawers to spill out.

Re claim 5, Sturges discloses the invention except for the hinged lid. Holsinger teaches a portable work station capable of holding contents while they are sterilized, and includes a hinged lid 20. It would have been obvious to modify the lid of the second case to be a hinged lid so that the lid will automatically close due to the weight of the lid which enables the user to drop the lid without the added step of aligning the lid by manipulation into the closed position.

Re claim 6, Official notice is taken that removable hinged lids are well known as by removable fasteners which can attach a piano hinge. It would have been obvious to add the removability feature to allow replacement of a damaged lid or body without replacement of the entire unit (lid and body).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sturges in view of Holsinger as applied to claim 5 above, and further in view of Trower.

The combination discloses the invention except for the handle and recessed pocket. Trower teaches a handle and recessed pocket interlocking means. It would have been obvious to add the handle and recessed pocket of Trower to provide secure fastening in the stacked position to prevent stacked articles from separating.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trower in view of Kohagen et al. (Kohagen).


Trower discloses the invention except for the offset. Kohagen teaches an offset insofar as claimed since the second case (tray 64) has a smaller footprint in plan view than the first case (lower bin 10), the smaller footprint of the second case provides an offset from the first case in a

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direction transverse to the vertical direction (horizontal direction). It would have been obvious to modify the second container to have a smaller footprint to provide access to laterally situated containers (such as container 50) provided within the lower bin which would not be accessible if the first and second case have the same footprint.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc